

Application No. 10/804,328

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Docket No.: 81032(70904)

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REMARKS

Claims 1-22, 24-25, and 27-32 were pending in the application. No claims have been amended or cancelled. Accordingly, claims 1-22, 24-25, and 27-32 remain pending.

*Rejection of Claims Under 35 USC 102(a) and (b)*

The Examiner has maintained the rejection of claims 1-22, 24, 25, 27-32 under 35 USC 102(b) as being anticipated by Nakamura and the rejection of claims 1-7, 10-18, 21, 22, 24, 25, and 27-32 as being anticipated by Cheong.

Specifically, the Examiner is of the opinion that heat transferal is an inherent function of light absorption material. Moreover, the Examiner believes that the optical pickup in claims 30 and 31 constitutes the means by which Nakamura and Cheong perform readout. Applicants respectfully traverse this rejection.

For a reference to anticipate the pending claims, the reference must teach each and every element that is set forth in the claims, either expressly or inherently (see, *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed Cir. 1987) and MPEP 2131). Neither Nakamura or Cheong teach or suggest each and every element of the claims as amended.

The cited references do not teach each and every element of the claims as currently pending.

According to the present invention, the super-resolution effect can be achieved by use of the temperature responsive layer and the light absorption layer. Further, according to the present invention, the temperature responsive layer, which functions in accordance with a temperature change caused by the irradiation of a light beam, is heated by the light absorption layer, which is a layer other than the temperature responsive layer.

In contrast, a mask layer described in Reference 1 functions in a photon mode (see Paragraph [0010]). In other words, the mask layer of Reference 1 does not function in accordance with a change in temperature. Thus, concerning Reference 1, even if such a phase change material as Ge-Sb-Te is used for the recording layer, the mask layer is not heated by the recording layer. Consequently, the mask layer and the recording layer described in Reference 1 are completely different from the temperature responsive layer and the light absorption layer of the present invention.

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In addition, a mask layer which functions in a heat mode is disclosed as a conventional example in Reference 1 (see Paragraph [0005]). However, the mask layer itself absorbs light and generates heat. Therefore, the mask layer does not correspond to the temperature responsive layer of the present invention.

Reference 2 discloses, as a super-resolution layer, the utilization of a phase change material (line 44 through 51 on page 5) such as Ge-Sb-Te, and a composite material (see line 5 through 12 on page 6) such as ZnO dispersed in glass or resin. In this case, since ZnO is dispersed in glass or resin. Therefore, the composite material cannot be heated by the phase change material. Accordingly, the super-resolution layer of Reference 2 is completely different from the combination of the temperature responsive layer and the light absorption layer of the present invention.

As described above, neither Reference 1 nor Reference 2 discloses or suggests the feature of the present inventory that "the temperature of the temperature responsive layer, which layer functions in accordance with a change in temperature caused by the irradiation of a light beam, is raised by the light absorption layer."

Based on the foregoing, the cited references do not anticipate the pending claims. Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing rejection.

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**CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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